

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

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CAR-FRESHNER CORP. and JULIUS :
SAMANN LTD., :

Plaintiffs, :

-against- :

EXCELLENT DEALS, INC., :

Defendant. :

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VITALIANO, D.J.

MEMORANDUM & ORDER

10-CV-1391 (ENV) (SMG)

Plaintiffs Car-Freshner Corporation and Julius Samann Ltd. filed a complaint against defendant Excellent Deals Inc. on March 29, 2010 for trademark counterfeiting and infringement, false designation of origin, and trademark dilution. After defendant failed to appear or otherwise respond to the complaint, plaintiff moved for default judgment on July 13, 2010. The Clerk of Court noted default and on August 3, 2010, the Court referred the action to Chief Magistrate Judge Steven M. Gold to determine the appropriate relief.

Following a review of the relevant submissions, Judge Gold issued a Report and Recommendation ("R&R") on August 1, 2011, recommending that plaintiffs' motion for a default judgment and permanent injunction be granted. No objections to Judge Gold's R&R have been timely filed. In reviewing a report and recommendation, the court "may accept, reject, or modify, in whole or in part, the findings and recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1)(C). Moreover, in order to accept a magistrate judge's report and recommendation where no timely objection has been made, the "court need only satisfy itself that there is no clear error on the face of the record." Urena v. New York, 160 F. Supp.2d 606, 609-10 (S.D.N.Y. 2001) (quoting Nelson v. Smith, 618 F. Supp. 1186, 1189 (S.D.N.Y. 1985)).

After careful review of all the evidence in the record below, the Court finds Judge Gold's R&R to be correct, comprehensive, well-reasoned, and free of any clear error. The Court, therefore, adopts the R&R in its entirety as the opinion of the Court. Accordingly, for the reasons stated in the R&R, the plaintiffs' motion for a default judgment is granted and a permanent injunction is issued against Excellent Deals Inc. enjoining them from using plaintiffs' Tree Design Marks or trade dress, or any colorable imitation or confusingly similar design, in connection with defendant's distribution or sales of air fresheners.

Additionally, defendant is ordered to deliver to plaintiff all of defendant's air fresheners, product, packaging, materials and documents, with the unauthorized tree design, including any reproduction, copy or colorable imitation of plaintiff's Tree Design Marks and/or trade dress, as well as all documents and things relating to defendant's manufacture, procurement, purchase, acquisition, storage, marketing, promotion, advertising, distribution, and/or sale of said goods in the possession and/or control of defendants, its agents, servants, officers, directors, employees, and any other persons or entities in active concert or participation with defendant.

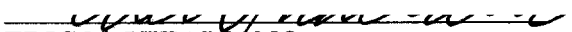
Defendant is also ordered to remove any and all images of the unauthorized tree designs, plaintiff's Tree Design Marks, trade dress, or any colorable imitations therefore, from all products, packaging, websites and promotional materials, whether electronic, printed or otherwise, under defendant's direct or indirect control.

The Clerk is directed to enter Judgment and to close this case.

SO ORDERED.

Dated: Brooklyn, New York
September 6, 2011

s/ENV


ERIC N. VITALIANO
U.S.D.J.